

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

MICHELLE VALVO,

Plaintiff,

-against-

THE DEPARTMENT OF EDUCATION OF THE CITY OF
NEW YORK, and THE UNITED FEDERATION OF
TEACHERS,

Defendants.

**DEFENDANT DOE'S
NOTICE OF MOTION TO
DISMISS THE AMENDED
COMPLAINT**

19-cv-08341 (JPO)(SN)

----- X

PLEASE TAKE NOTICE that upon the accompanying Declaration of Assistant Corporation Counsel Kimberly E. Wilkens, dated April 29, 2020, and the exhibits annexed thereto, the Memorandum of Law in Support of Defendant New York City Department of Education's ("Defendant DOE")¹ Motion to Dismiss Plaintiff's Amended Complaint, and upon all the papers and proceedings previously had herein, Defendant DOE will move this Court at the United States Courthouse for the Southern District of New York, 40 Foley Square, Courtroom 706 New York, NY 10007, before the Honorable J. Paul Oetken, United States District Judge, on a date and time set by the Court, for a judgment, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, dismissing Plaintiff's Amended Complaint in its entirety with prejudice on the grounds that Plaintiff failed to state claims upon which relief can be granted, Plaintiff failed to exhaust his administrative remedies, and Plaintiff failed to file timely notice of claim, and granting such other and further relief that this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to Local Rule 6.1 of the Local Rules of the United States District Courts for the Southern and Eastern Districts of New

¹ Plaintiff alleges purported claims against co-defendant, The United Federation of Teachers ("UFT"). As these allegations do not pertain to Defendant DOE, they are not addressed in the instant motion.

York, (1) any opposing affidavits and answering memoranda of law shall be served within fourteen days after service of the motion papers, and (2) any reply affidavits shall be served within seven days after service of the answering papers.

Dated: New York, New York
April 29, 2020

JAMES E. JOHNSON
Corporation Counsel of the
City of New York
Attorney for Defendant DOE
100 Church Street, Room 2-109e
New York, NY 10007
(212) 356-4083
kwilkens@law.nyc.gov

By: /s/
Kimberly E. Wilkens
Assistant Corporation Counsel

To:
Dwayne Christopher Mason, Plaintiff's Counsel (by ECF)

To:
Michael Del Piano, Counsel for Co-defendant UFT (by ECF)